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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,434	10/06/2004	Stuart D. Harshbarger	1883-8124	8857

7590

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EXAMINER

RODRIGUEZ, JOSEPH C

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/510,434	Applicant(s) HARSHBARGER ET AL.	
	Examiner Joseph C. Rodriguez	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,10-12,15 and 21 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7-9,13,14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.                                                |

***Final Rejection***

Applicant's arguments filed 4/13/06 have been fully considered but they are not persuasive for reasons detailed below.

The prior art rejections are maintained or modified as follows:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5, 7, 8, 13, 14, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Call et al. ("Call") (US 2002/0124664 A1) in view of Stradley et al. ("Stradley")(US 2003/0119175 A1).

Call teaches (Fig. 1) a high-speed mail sorting apparatus for automated screening of parcels to identify parcels likely to contain biological or non-biological contaminants, comprising

a parcel opener (910; para. 0118, 0129-133 teaching that opener can be a laser) for creating a plurality of openings in each parcel in a predetermined position to eject contaminants from the parcel in a predetermined direction (para. 0129 et seq. teaching different embodiments wherein fluid jets are directed through plurality of holes to bring particulates towards sampling means);

a parcel separator that separates and individually feeds each parcel into the parcel opener (para. 0111);

an alarm (para. 0119) for notifying an operator when an opened parcel is determined to be likely to contain contaminants;

an air duct for diverting an air flow collected from over the opened parcel (para. 0112, 139; Fig. 3A, teaching aerosolizing means that creates cloud from envelope particles and directs particle flow through virtual impactor, wherein ducts connect various impactors and impactor interiors can be regarded as dwell chambers; para. 141 et seq. teaching that impactor slows particle flow by entraining and concentrating particles for analysis);

a particulate sampler for extracting an air sample from the air flow from a dwell chamber for analyzing the air flow to detect whether the opened parcel is likely to contain contaminants (para. 0112-0115 teaching use of various sampling devices connected to impactors); and

a particulate concentrator for filtering the air flow, wherein the particulate concentrator is analyzed at periodic intervals to confirm the accuracy of the analysis performed by the particulate sampler (para. 0113 teaching intermittent sampling; fig. 3a, para. 0177 teaching filter 997; para. 0140 et seq. teaching virtual impactor concentrating and separating means).

Call as set forth above teaches all that is claimed except for expressly teaching a pinch roller for compressing the opened parcel. This feature, however, is well-known in the mail sorting arts. Call already teaches that any device with two opposed surfaces

can be used to compress the mail (para. 0128). Further, Stradley expressly teaches that pinch rollers are known as compressing means to sample contaminants from within mail (Fig. 1, 2, rollers 36; para. 016 et seq.). Thus, the pinch roller can be viewed as a well-known equivalent to the accessing means taught by Call. See MPEP 2144.06. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Call as taught by Stradley as Call already teaches that two opposed surface can be used to compress mail and Stradley teaches that the pinch rollers are known in the mail sorting arts to compress mail.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Call et al. ("Call") (US 2002/0124664 A1) in view of Stradley et al. ("Stradley")(US 2003/0119175 A1) as applied to claims 1-5, 7, 8, 13, 14, 16-20 above, and further in view of Belec et al. ("Belec")(US 2003/0115998 A1).

Call and Stradley as set forth above teaches all that is claimed except for expressly teaching the parcel opener as a rotary puncher. Belec, however, teaches that a rotary punchers is a well known parcel opener (Fig. 9-11; para. 0041 et seq.). That is, Belec teaches that the rotary puncher can be regarded as a well known equivalent to the opening means (i.e., laser perforator) taught by Call. See MPEP 2144.06. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Call and Stradley as the rotary puncher is a well known equivalent.

### ***Response to Arguments***

Applicant's arguments that the prior art fails to teach the claimed features are unpersuasive. In particular, Applicant focuses on the amended feature of an air duct and dwell chamber, wherein the device functions by slowing the particle flow to extract particles for testing. Call, however, as cited above teaches blowing a particle cloud through various impactors and then filtering and concentrating the particles focused by the impactors. The various impactors, filters and samplers clearly function to slow down the particle flow using various ducts and chambers, thus it is unclear how Applicant can argue otherwise. Consequently, as the prior art undermines Applicant's arguments, the claims stand rejected.

### ***Allowable Subject Matter***

Claims 6, 10-12, 15 and 21 are allowed.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the air ducts and dwell chamber must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Examiner has maintained the prior art rejections, statutory rejections and drawing objections as previously stated and as modified above. Applicant's amendment necessitated any new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Joseph C Rodriguez** whose telephone number is **571-272-6942** (M-F, 9 am – 6 pm, EST).

The **Official** fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

The examiner's **UNOFFICIAL Personal fax number** is **571-273-6942**.

Further, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only.

For more information about the PAIR system, see

**<http://pair-direct.uspto.gov>**



Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at **866-217-9197** (Toll Free).

Alternatively, inquiries of a general nature or relating to the status of this application or proceeding can also be directed to the **Receptionist** whose telephone number is **571-272-6584** or to the Supervisory Examiner, Gene Crawford, **571-272-6911**.

Signed by Examiner Joseph Rodriguez

jcr

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June 30, 2006

